

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Edward Tsigel	Team: Squad #16	CCRB Case #: 202103776	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 06/23/2021 2:50 PM	Location of Incident: West 41 Street and 6 Avenue	18 Mo. SOL 12/23/2022	Precinct: 14		
Date/Time CV Reported Thu, 06/24/2021 8:44 AM	CV Reported At: Mayor's Office	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 06/24/2021 8:44 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LT James Lee	00000	930421	PBMS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Marcus Jenkins	00849	936813	PBMS SCOOTER
2. PO Wilfredo Rivera	08719	942444	PBMS SCOOTER
3. PO Shu Li	22919	952994	PBMS SCOOTER
4. PO Michael Brenner	08077	960276	007 PCT
5. PO Brendan Gould	03552	953925	PBMS SCOOTER

Officer(s)	Allegation	Investigator Recommendation
A . LT James Lee	Abuse: Lieutenant James Lee refused to provide his name to individuals.	
B . LT James Lee	Abuse: Lieutenant James Lee stopped individuals.	
C . LT James Lee	Abuse: Lieutenant James Lee took a recording of individuals.	
D . LT James Lee	Abuse: Lieutenant James Lee took a recording of § 87(2)(b)	
E . LT James Lee	Abuse: Lieutenant James Lee frisked § 87(2)(b)	

Case Summary

On June 24, 2021, § 87(2)(b) filed this complaint on the CCRB website.

On June 23, 2021, at 2:50 PM, § 87(2)(b) was participating in a protest at Bryant Park in Manhattan when he observed two unidentified male individuals approach a police van which was located at the northwest corner of 41st Street and 6th Avenue. Lieutenant James Lee of Patrol Borough Manhattan South (PBMS) was sitting in the front passenger seat of the police van. The male individuals asked Lt. Lee for his name, and he allegedly refused to provide it to them (**Allegation A – Abuse of Authority – § 87(2)(g)**). Lt. Lee allegedly ordered additional officers to surround and stop the male individuals (**Allegation B – Abuse of Authority – § 87(2)(g)**). Lt. Lee recorded the male individuals and § 87(2)(b) on his personal cell phone (**Allegations C and D – Abuse of Authority – § 87(2)(g)**). Lt. Lee allegedly frisked § 87(2)(b) (**Allegation E – Abuse of Authority – § 87(2)(g)**).

There was no arrest made or summons issued as a result of this incident.

The CCRB received five Body Worn Camera (BWC) videos (IA 57-61) and two camera videos from § 87(2)(b) of this incident (IA 40 and 41).

Findings and Recommendations

Allegation (A) Abuse of Authority: Lieutenant James Lee refused to provide his name to individuals.

Allegation (B) Abuse of Authority: Lieutenant James Lee stopped individuals.

On June 23, 2021, at 2:50 PM, § 87(2)(b) (BR 01) participated in a protest at Bryant Park in Manhattan when he observed two unknown male individuals approach a police van that was located at the northwest corner of 41st Street and 6th Avenue. Lt. Lee was sitting in the front passenger seat of the police van and the male individuals asked Lt. Lee for his name, and he told them that they already knew him and have seen him before. § 87(2)(b) did not know if Lt. Lee ever provided his name to the male individuals. Lt. Lee then exited the police van and approximately seven additional officers followed him out of the van. Lt. Lee instructed the additional officers to surround the male individuals and create a circle perimeter around them.

The investigation was unable to identify the two male individuals and therefore could not obtain statements from them.

Lt. Lee (BR 02) stated that he was sitting in the passenger seat of the van having lunch, when the male individuals approached him and asked him for his name and shield number. He told them his name and that he did not have a shield number. He then exited the van and spoke to the male individuals in front of the van. He described the male individuals as aggressive and hostile because they were yelling at him, tensing their muscles, and attempting to bait him into a confrontation by saying things such as “You’re drunk” and “Are you going to hit me?” Additional officers exited the van and stood around Lt. Lee and the male individuals; however, Lt. Lee did not instruct them to do so and assumed that they did so for his safety. The male individuals were not considered to be stopped and were free to leave at any time. None of the officers prevented the male individuals from leaving. Lt. Lee stated that he hoped the male individuals would leave the scene.

From 0:00 to 0:20 of § 87(2)(b) camera video 1 (BR 03), it shows the male individuals approach Lt. Lee when he is in the front passenger seat of the police van and ask him for his name and shield number. Lt. Lee exits the van and tells them that he does not have a shield number and that his name is Lt. Lee. From 0:35 to 4:20, at least five officers exit the police van and stand around Lt. Lee and the male individuals. At no point is Lt. Lee heard instructing any officers. At no point are any officers other than Lt. Lee heard interacting with the male individuals or seen preventing them from leaving. At 4:20, the male individuals leave the location without any interference from any officers.

Video evidence shows that Lt. Lee provided his name to the male individuals upon their request. § 87(2)(g)

Additionally, based on Lt. Lee's statement and video footage, at no point do any officers stop the male individuals or prevent them from leaving the scene. While officers did create a perimeter around Lt. Lee and the male individuals, the perimeter was wide enough where the male individuals would not have reasonably believed that they were stopped or being prevented from leaving the scene in any way. The male individuals eventually left the scene of their own free will and without and interference from any officers. § 87(2)(g)

Allegation (C) Abuse of Authority: Lieutenant James Lee took a recording of individuals.

Allegation (D) Abuse of Authority: Lieutenant James Lee took a recording of § 87(2)(b).

It is undisputed that when Lt. Lee (BR 02) exited the police vehicle, he began recording the incident on his personal cell phone. Lt. Lee stated that when he exited the van, he attempted to take out his department cell phone but he accidentally reached for his personal cell phone. Lt. Lee began to record the male individuals on his personal cell phone because he did not have his BWC with him. He continued to record on his cell phone instead of getting his department cell phone because he believed that it was an emergency situation and he feared for his safety. He feared for his safety because he felt that the male individuals were going to attack him due to them aggressively approaching him, flexing their muscles, and yelling and cursing at him. Lt. Lee deleted the footage he recorded on his personal cell phone when he learned that there was BWC footage of the incident from other officers.

From 0:05 to 6:00 of § 87(2)(b) camera video 1 (BR 03), Lt. Lee exits his police vehicle and immediately begins to record the male individuals on his personal cell phone. Lt. Lee speaks to the male individuals in a relaxed and calm manner with his hand on his belt. Lt. Lee paces between the male individuals for approximately six minutes while turning his back to them multiple times. At least five additional officers are seen surrounding the immediate area. Between 6:00 and 7:20, Lt. Lee records § 87(2)(b) with his personal cell phone while circling around him. Lt. Lee then puts his personal cell phone away into his pocket. At no point are either the male individuals or § 87(2)(b) heard or seen making any verbal or physical threatening remarks towards Lt. Lee or any other officers.

Patrol Guide Procedure 206-03 (BR 04) states that using a personal electronic device while performing duties during tour is not allowed except on authorized meal, in the event of an emergency, or as directed by competent authority. Additionally, a personal cellular phone shall not be used to conduct official Department business, except under exigent circumstances. The personal cellular phone must be carried in a concealed manner that does not interfere with authorized equipment.

Lt. Lee admitted that he used his personal cellphone device to record this incident. The Patrol Guide states that he could only use his personal cell phone device during exigent circumstances and when it is called for. Based on Lt. Lee's calm demeanor during this interaction and the lack of any threatening remarks made by any of the individuals involved, in addition to at least five additional officers present at the scene, § 87(2)(g)

Additionally, while Lt. Lee stated that he accidentally picked up his personal cell phone instead of his department phone, he had sufficient time to exchange his personal cell phone for his department phone. § 87(2)(g)

Allegation (F) Abuse of Authority: Lieutenant James Lee frisked § 87(2)(b).

§ 87(2)(b) (BR 01) stated that once Lt. Lee finished interacting with the male individuals, he approached § 87(2)(b) and frisked him with his left hand on his front and back pant pockets

Lt. Lee (BR 02) stated that he approached § 87(2)(b) but did not frisk him and that he was recording with his right hand and had his left hand on his belt the entire time.

§ 87(2)(g)

[illegible]

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- 201607870 involved substantiated allegations of a stop, entry and search of premises against Lt. Lee. The Board recommended command discipline and the NYPD imposed formalized training.

Mediation, Civil, and Criminal Histories

- This case was not eligible for mediation.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- As of January 19, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to this complaint (BR 08).

Squad: _____ 4 _____

Investigator:	_____ Edward Tsigel _____	_____ Investigator Edward Tsigel _____	_____ 1/19/2022 _____
	Signature	Print Title & Name	Date

Squad Leader:	_____ _____	_____ _____	_____ _____
	Signature	Print Title & Name	Date

Reviewer:	_____ _____	_____ _____	_____ _____
	Signature	Print Title & Name	Date